



## U.S. Department of Justice

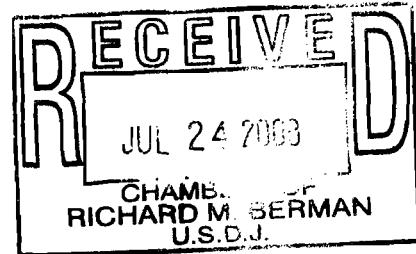
United States Attorney  
Southern District of New York

86 Chambers Street, 3d Floor  
New York, New York 10007

July 23, 2008

BY HAND

The Honorable Richard M. Berman  
United States District Judge  
Daniel Patrick Moynihan United  
States Courthouse  
500 Pearl Street, Room 650  
New York, NY 10007

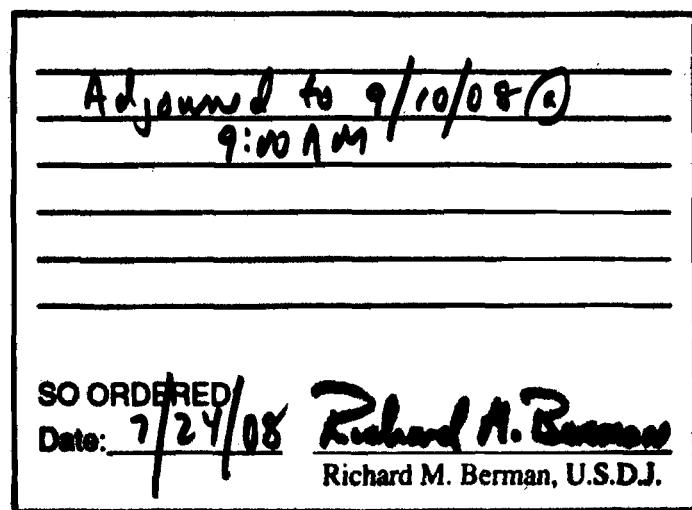
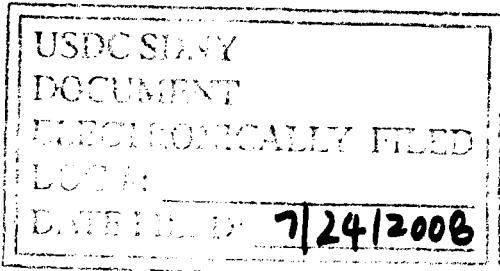


Re: *Fratellone v. Leavitt*,  
08 Civ. 3100 (RMB)

Dear Judge Berman:

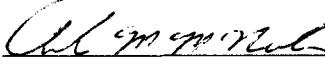
I write regarding the above-referenced action challenging the decision of an administrative law judge, holding that Medicare had paid certain monies to plaintiff in error, which is scheduled for a preliminary conference on July 28, 2008, at 9:00 a.m. I write to inform the Court that, regrettably, counsel for plaintiff, Abraham Wax, recently passed away. I enclose a copy of Mr. Wax's death certificate which was forwarded to me by Manuel Pardo, Mr. Wax's paralegal, who is handling the winding-down of Mr. Wax's practice. Mr. Pardo has spoken to plaintiff, who indicates that he intends to search for substitute counsel. Accordingly, I respectfully request that the initial conference be postponed until such time as plaintiff's substitute counsel appears in this matter. I have copied Mr. Pardo on this letter, who has assured me that it will be forwarded to plaintiff.

Thank you for your consideration of this request.



Respectfully submitted,

MICHAEL J. GARCIA  
United States Attorney  
for the Southern District of New York

By:   
ANDREW M. McNEELA  
Assistant United States Attorney  
Telephone: (212) 637-2741

cc: BY FEDERAL EXPRESS

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